

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION

JOSHUA CONTARIO, ET AL

CIVIL ACTION NO. 17-cv-0675

VERSUS

JUDGE FOOTE

KENDRICK BALL, ET AL

MAGISTRATE JUDGE HORNSBY

MEMORANDUM ORDER

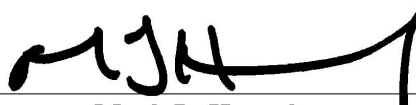
Joshua Contario alleged in a state court petition that he was driving a pickup truck when he came upon another vehicle stopped in the road, which forced Mr. Contario to lose control of his vehicle and crash inside the tree line. He and his spouse filed suit in state court and alleged that Mr. Contario suffered injuries “to the cervical spine, thoracic spine, lumbar spine, and right knee” without further specification. The petition also listed categories of damages such as pain and suffering and medical bills, also without specification of any amounts.

Defendants removed the case based on an assertion of diversity jurisdiction, which placed the burden on them to establish that there is complete diversity of citizenship and the amount in controversy exceeds \$75,000. The notice of removal appears to adequately allege the citizenship of the various parties and represent that they are diverse. With respect to the amount in controversy, the removing defendants allege that they “have reason to believe” that the case is one wherein the matter in controversy exceeds \$75,000. They note that the petition does not take advantage the Louisiana procedural law that allows a plaintiff to allege

that damages are less than the amount necessary for federal jurisdiction, but the defendants do not provide any additional facts relevant to that issue.

The burden on the removing defendants in cases such as has been discussed in some detail in decisions such as Wilson v. Hochheim Prairie Cas. Ins. Co., 2014 WL 508520 (W.D. La. 2014). It is debatable whether Defendants have satisfied their burden under those rules. Accordingly, Defendants will be allowed until **June 12, 2017** to file an amended notice of removal and set forth specific facts, such as the nature and extent of the injuries, amount of medical bills, whether surgery was required, pre-suit settlement demands, and the like in an effort to meet their burden. If Defendants meet their burden, the court will set a scheduling conference after an answer has been filed by each defendant. If not, the case may have to be remanded.

THUS DONE AND SIGNED in Shreveport, Louisiana, this 25th day of May, 2017.



Mark L. Hornsby
U.S. Magistrate Judge